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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,032	12/20/2001	Douglas C. Meyer	68,143-008	2259

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,032

Applicant(s)

MEYER, DOUGLAS C. 

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-41 is/are pending in the application.
- 4a) Of the above claim(s) 12-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3-11 and 32-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on July 9, 2004 wherein:

claims 1 and 3-41 are pending;

claims 12-31 have been withdrawn;

claim 2 has been canceled;

claims 1 has been amended; and

claims 32-41 have been added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-10, 32, 33, and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,884,300 (Brockman).

Regarding **claim 1**, Brockman discloses a method of improving records of inventory at a facility using a computer system, comprising: assessing a plurality of current inventory records associated with the facility (see S410 and S415); responsively identifying at least one discrepancy in at least one of the current inventory records using said computer (see S430); resolving said at least one discrepancy (see column 1, lines 37-42, "self-correcting"); identifying at least one characteristic associated with the at least one inventory record (see S430); and

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modifying the at least one characteristic in response to the discrepancy (see column 1, lines 37-42); identifying at least one deficiency in the current inventory records which resulted in the at least one discrepancy; and establishing a plan to correct the at least one deficiency, the plan including specific changes to the current inventory process (see column 1, lines 37-42); **[claim 3]** the step of modifying the at least one characteristic includes one of adjusting and adding the at least one characteristic to the at least one inventory record (see column 1, lines 37-42); **[claim 4]** the step of establishing a plan includes the step of reviewing an inventory process of the facility (see step S775; Figure 5B); **[claim 5]** the plan includes the step of improving an inventory practice (it is inherent that any change to the inventory would be for improvement); **[claim 6]** the plan includes the step of improving an inventory methodology (it is inherent that any change to the inventory would be for improvement); **[claim 7]** the inventory process is a receiving process (see step 710; Figure 5A); **[claim 8]** the step of assessing current inventory records includes the step of performing a warehouse audit (see column 3, lines 20-27); **[claim 9]** the step of assessing current inventory records includes the step of performing a location audit (see column 3, lines 20-27); **[claim 10]** the step of assessing current inventory records includes the step of performing a statistical test count (see column 4, lines 22-33); **[claims 32 and 39]** receiving a claim (report; see Figure 2, S435) associated with said inventory; and analyzing said claim (inherent); and establishing a plan to correct the at least one deficiency; and **[claims 33 and 39]** identifying a characteristic of a part in said inventory (for example, the type of product in inventory). It is noted that limitations of **claims 36 and 37** are similar to other claimed addressed above in detail.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of *Official Notice*.

Brockman discloses all the limitations as set forth above but fails to explicitly disclose performing a statistical test count by defining a population and extrapolating data to achieve an inventory count.

The Examiner takes Official Notice that was old and well known in the art at the time the invention was made to extrapolate total inventory data based on a predetermined sample.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with inventory count extrapolation as is well known in the art, because inventory extrapolation allows an organization to statistically determine inventory quantities in manner that is faster and more efficient than a complete physical count.

6. Claims 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of U.S. Patent Application No. US 2002/0072977 (hereinafter "Hoblit").

Brockman discloses all the limitations as set forth above but fail to explicitly disclose utilizing theft prone or problem prone characteristics in inventory analysis.

Hoblit teaches that inventory analysis can be generated based on theft prone or problem prone inventory (see paragraph #0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with the analysis of theft/problem prone inventory as taught by Hoblit, because considering theft/problem prone inventory will help reduce the chance of discrepancies based on theft or problems in the future.

Response to Arguments

7. Applicant's arguments filed July 9, 2004 have been fully considered but they are not persuasive.

On page 10, first paragraph, Applicant traverses the Examiner's objection to the drawings. After further review, the objection to the drawing is withdrawn.

On page 10, second paragraph, Applicant amended the abstract to overcome the objection to the abstract. In view of Applicant's amendment, the objection to the abstract is withdrawn.

On page 10, third paragraph, Applicant amended the claims to overcome the rejection of claims 4-7 under 35 U.S.C. § 112, second paragraph for lack of antecedent basis. In view of Applicant's amendment, the rejection of claims 4-7 under 35 U.S.C. § 112, second paragraph is withdrawn.

On page 10, fourth paragraph, Applicant amended the claims to overcome the rejection of claims 1-11 under 35 U.S.C. § 101. In view of Applicant's amendment, the rejection of claims 1-11 under 35 U.S.C. § 101 is withdrawn.

On page 11, second paragraph, Applicant argues that Brockman fails to disclose the features of claim 2, now added to amended claim 1 ("identifying at least on deficiency in the current inventory records which resulted in the at least one discrepancy" and "establishing a plan

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to correct the at least on discrepancy, the plan including specific changes to the current inventory practices”). The Examiner respectfully disagrees. As set forth below in detail, Brockman disclose all features of newly amended claim 1.

On page 11, final paragraph (continued on page 12), Applicant argues that Brockman provides no suggestion that the system will establish a plan for correct the deficiency. Brockman correct the problem in two ways. First, Brockman is “self-correcting” because Brockman determines a discrepancy in inventory data and either picks from consignment inventory or generates work orders. Therefore, Brockman’s first plan for correcting the discrepancy is to replace the shortage. Secondly, Brockman creates a management report that is inherently used by management to reevaluate inventory problems and correct the problems with a new plan. Why would management receive a report if they didn’t intend to act on the information they are given? If the information consistently shows large discrepancies, it is inherent that management will create a new plan to control inventory problems, wherein improving the inventory practice.

On page 12, final paragraph (continued on page 13), Applicant argues that Brockman fails to disclose assessing inventory record in a facility. The Examiner respectfully disagrees. In fact, Brockman discloses assessing inventory record in step S415 (see Figure 2).

On page 13, final paragraph, Applicant traverses the Examiner’s assertion of Official Notice based on the argument that claim 11 depends from amended claim 1, which Applicant believes to be in condition for allowance. As set forth the Examiner maintains the rejection of claim 1 (including new limitations from original claim 2). Additionally, Applicant’s traversal of the Examiner’s assertion of Official Notice is inadequate. According to M.P.E.P. 2144.03 C, to adequately traverse such a finding, an applicant must specifically point out the supposed errors in

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the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. Applicant's general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice is inadequate. Additionally, M.P.E.P. 2144.03 C states that if applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

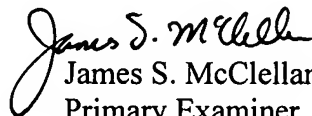
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
October 17, 2004